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SUBJECT: Honduras and CAFTA Labor Track II: Ministry of Labor Seeks to Enforce Labor Law But Lacks Resources

Ref: (A) Olsen/Wilson e-mail 01/16/04

(B) State 6145
(C) 03 Tegucigalpa 2283
(D) 03 State 257469

11. (SBU) Summary: In Honduras, there is good will in the Ministry of Labor (MOL) in general and Minister of Labor German Leitzelar in particular to protect core labor rights. Honduran labor law, while deficient in some areas with respect to ILO core conventions, is not the main issue for the protection of labor rights. The enforcement of existing labor laws is key. However, the overall budget crunch in the GOH severely hampers the MOL's ability to do just that. Nevertheless, the MOL does aggressively investigate prominent cases brought to its attention by labor unions and has improved significantly under Leitzelar's leadership. End Summary.

Tight GOH Budget Means Decline in MOL Budget

12. (U) LabAtt met January 15 with the new Vice Minister of Labor for the GOH, Ada Gabriela Mejia Mejia, a psychologist and previously a National Party (ruling party) congresswoman with whom LabAtt previously worked on TIP/child labor issues. LabAtt emphasized the importance of GOH's aggressive enforcement of labor law and briefed her on DOL's ongoing support for the MOL. She seemed to understand the importance of this issue, especially as it relates to approval of CAFTA by the U.S. Congress, but she noted the MOL's relatively paltry budget limits what the MOL can do.

13. (U) Below is a chart of the MOL's budget for the last several years, minus money that passes through the ministry for budgetary/organizational reasons but that does not fund MOL activities. The lempira data comes from the MOL. The dollar conversion and comparisons with previous years' figures are Post's calculations using exchange rates (lempiras/USD) as of January 1 of each calendar year.

CYear	Budget (lempiras)	Budget (USD)	Exchange rate
2001	56,059,600	3,732.330	15.02
2002	61,033,900	3,849,748	15.854
2003	75,657,360	4,481,540	16.882
2004	72,110,700	4,051,743	17.957

14. (U) As one can see, after shooting up an impressive USD 631,792 (16.4 percent) from CY2002 to CY2003, which was the first budget under the Maduro Administration, the budget was cut by USD 429,797 for CY2004, wiping out 68 percent of the CY2003 budget boost. The cuts were part of an across-the-board reduction in government expenditures needed to reduce the budget deficit to a manageable level (and obtain an IMF program). Post estimates the GOH allocated only 0.2 percent of its total expenditures (including foreign assistance) to the Ministry of Labor in 2002, including salaries of MOL employees.

GOH Aggressive on Inspections But Needs Help

15. (U) The MOL inspection record has improved under the Maduro Administration and Leitzelar's leadership. The MOL is quick to inspect companies when allegations are made public. In the recent highly publicized case of NGO/union allegations of labor law violations by the SETISA maquila that makes t-shirts for the Sean John label, Leitzelar himself inspected the factory with several inspectors right after the allegations hit the press. The MOL's quick action, combined with SETISA's openness to the MOL and press, has helped defuse a war of words over the alleged violations.

16. (U) The MOL benefits from several DOL-funded technical assistance programs that enhance the inspectors' ability to enforce the law. The number of inspectors, after dropping

in the recent past, went up in the last few years, and has now leveled off (figures from the MOL). Of the 2003 figure of 115 inspectors, 101 are general labor inspectors and 14 are occupational safety and health inspectors.

CYear	Inspectors
1998	107
1999	102
2000	104
2001	110
2002	114
2003	115

17. (U) Unfortunately, the MOL's relatively limited number of inspectors means that the MOL is often unable to inspect work sites for routine violations of the law. Budget constraints also mean that inspectors often lack vehicles and/or fuel to drive to work sites to conduct inspections.

Potential Changes to Labor Law Unlikely

18. (U) Minister Leitzelar's assistant Jackie Cruz told LabAtt on January 15 that there is not a specific tripartite commission to follow-up on shortcomings in Honduran labor law identified by the ILO study of Honduran labor law in comparison to core ILO conventions. However, the Council on Economic and Social Issues, a tripartite body, is studying possible labor law reform. Post notes, however, that this has been on the table for quite some time, is a political football, and reform is not likely to happen in the near future. This is despite the fact that the recent ILO study comparing Honduran labor law to the ILO core conventions noted that Honduran law was not in accordance with the ILO core conventions in several areas.

19. (U) One area in which changes to the labor law have been suggested concerns the requirements for collective bargaining. Current law only requires there be more than 30 workers to constitute a trade union (a requirement that has been criticized by the ILO as detrimental to the formation of unions in small and medium businesses), but has no further requirements for collective bargaining rights. Companies are bound by current law to negotiate a collective bargaining agreement once a union has been legally established and requests that negotiations begin. However, as stated in the Human Rights Report, employers often refuse to bargain with a union. The Ministry of Labor can and has administratively sanctioned an employer for failing to negotiate a collective bargaining agreement, or for violating a collective bargaining agreement. However, employer intransigence often remains undeterred.

10. (U) Honduran Apparel Manufacturers Association President Jesus Canahuati has suggested that the GOH propose legislation that would require unions to have more than 50 percent worker representation in order to have collective bargaining rights. He thinks that will clear the way for Honduras to have a better record on negotiating collective bargaining agreements, because employers will be less likely to resist bargaining when the unions represent a sizable amount of the workforce. (Under the current law, employers point out, a union of only 30 members in a maquila of 500 workers has the right to collectively bargain on behalf of all 500 workers.) However, unions will surely oppose adding such a requirement to the law and it is unlikely to be proposed by the GOH to Congress absent a tripartite consensus on reforming the labor law.

Doing More With Less

11. (SBU) Comment: The bottom line is that there has been definite improvement in the Ministry of Labor under the Maduro Administration, mainly thanks to the leadership of Minister Leitzelar. The MOL and Minister Leitzelar are seeking to enforce Honduran labor law, but the overall budget crunch in the GOH severely hampers the MOL's ability to do more. Despite the fact that he is considered by many observers as one of the best ministers in President Maduro's cabinet, Minister Leitzelar and the MOL do not have much political clout either within the GOH or in Congress. For example, Minister Leitzelar is not a member of the ruling National Party. This makes boosting the MOL's budget in an extremely tight fiscal environment all the more difficult. Nevertheless, the MOL is aggressive when prominent cases come to light and seeks to use international technical assistance, such as that funded by DOL, to improve its capacity to better enforce the law. End Comment.

Palmer